

- If prior convictions were consolidated for judgment or obtained during the same week of superior court, one conviction may be used to establish habitual felon status, and a second conviction may be used to calculate the defendant's prior record level.¹⁴
- If a defendant sustains convictions in district court and superior court on the same day, one district court conviction and one superior court conviction may be used for prior record points.¹⁵

***Example:** An offender has three prior convictions in Superior Court: one assault with a deadly weapon with intent to kill (currently Class E) and two for felony larceny (currently Class H). The offender pled guilty to all three prior convictions on the same day of court. Therefore, the offender receives 4 prior record points for the most serious offense (the Class E felony), which places the offender in Prior Record Level II. No points accrue for the two felony larcenies, since the convictions occurred in the same court on the same day.*

Proof of Prior Convictions *G.S. 15A-1340.14(f)*

Prior convictions can be proved by:

1. Stipulation of the parties; or
2. Court records; or
3. Copy of records maintained by the Division of Criminal Information, Division of Motor Vehicles, or the Administrative Office of the Courts; or
4. Any other method the court finds reliable.

The original, or a copy of the court records, or a copy of the records maintained by the DCI, DMV, or the AOC bearing the same name as that by which the offender is charged, is prima facie evidence that the offender named is the same as the offender before the court and that the facts set out in the record are true.

A "copy" includes a paper reproduction of a record maintained electronically on a computer or other data processing equipment and a document produced by a facsimile machine.

Case Law

- A sentencing worksheet unsupported by a stipulation by the defendant or by additional documentation is insufficient to prove the existence of prior convictions.¹⁶
- A written stipulation signed by the prosecutor and defense counsel on the prior record level worksheet is sufficient to prove the prior convictions listed thereon.¹⁷
- Though uncontested, the prosecutor's unsupported statement that a defendant has a certain number of prior record points or a particular prior record level is insufficient to meet the State's burden of proof at sentencing.¹⁸

¹⁴ *State v. McCrae*, 124 N.C. App. 664, 478 S.E.2d 210 (1996); *State v. Truesdale*, 123 N.C. App. 639, 473 S.E.2d 670 (1996).

¹⁵ *State v. Fuller*, 179 N.C. App. 61, 632 S.E.2d 509 (2006).

¹⁶ *State v. Smith*, 155 N.C. App. 500, 573 S.E.2d 618 (2002).

¹⁷ *State v. Hussey*, ___ N.C. App. ___, 669 S.E.2d 864 (2008).

¹⁸ *State v. Bartley*, 156 N.C. App. 490, 577 S.E.2d 319 (2003).